THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO :8788 OF 1998

DATED 22-08-2005

Between :

1. The Superintending Engineer, R&B Warangal Circle, Nakkalagutta, Hanamkonda and another.

Petitioner.

And:

1. R.Madhusudhan, son of late Seshaiah, H.No.19-11-174/C, Shambunipet, Near Pochamma Temple, Dist.Warrangal and another.

Respondents

ORDER:

This writ petition is filed by the Superintending Engineer, R&B, Warangal Circle, Nakkalagutta, Hanamkonda and another (Management) being aggrieved by the award made in I.D.No.22 of 1993 dated 17-09-1997 on the file of the Industrial Tribunal-Cum-Labour Court, Warangal, wherein the petition filed by the 1st respondent-workman under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') was answered in his favour directing the petitioner-management to reinstate him afresh.

There is no necessity to go into all the details when the services of the 2nd respondent were terminated orally from 22-03-1997. He filed a petition under section 2A (2) of the Act before the Industrial Tribunal-Cum-Labour Court at Warangal, and the same was taken on file as I.D.No.22 of 1993. Before the Labour Court, on behalf of the petitioner-management, M.W.1 was examined. On behalf of the respondent-

workmen, W.W.1 and W.W.2 were examined and Ex.W.1 to Ex.W.4 were marked. Where as no documents were marked on behalf of the petitioner- management. After an elaborate consideration of the entire evidence on record, both oral and documentary, the Labour Court came to the conclusion that the petitioner-management had put in more than 240 days of service preceding the date of his termination. Therefore, the provisions of Section 25F of the Act are attracted. Since no procedure, as required under section 25F of the Act was followed, the oral termination was declared as arbitrary, illegal and directed the petitioner-management to reinstate the 1st respondent-workman as a fresh recruitee N.M.R./work Inspector. However, the continuity of service, back wages and other attendant benefits were denied.

The 1st respondent-workman categorically asserted in the claim petition that he had put in more than 240 days of service before the date of termination and therefore, the petitioner-management has violated the provisions of section 25F of the Act and as such, the termination of service is arbitrary and illegal. The petitioner-management except saying that the 1st respondent-workman had worked only for 192 days from August, 1986 to September, 1987, no documentary evidence was placed before the Labour Court. On the other hand, the Labour Court after considering the statement of MW1, the management witness as well as other documentary evidence on record Exs.W1, W2 and W.4, has rightly come to a conclusion that the 1st respondent-workman had put in more than 240 days of service. The Management has not placed any record to show that the 1st respondent-workman has not worked for 240 days except saying that he worked only for 192 days and not 240 days.

Under those circumstances, the finding of the Labour Court that oral termination of the 1st respondent-workman was arbitrary and contrary to the provisions of section 25F of the Act, can not be found fault with. The award passed by the Labour Court does not call for any interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed

The writ petition is, accordingly, dismissed. No order as to costs.

Justice C.V.RAMULU

DATE : 22-08-2005

Dvs

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